

Application Number 10/714,758
Responsive to final Office Action mailed July 3, 2006

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REMARKS

This submission is responsive to the Final Office Action dated July 3, 2006. Applicant has not amended the claims. Claims 1-156 and 158-170 remain pending, with claims 1-54 and 88-155 being withdrawn in response to a Restriction Requirement.

Claim Rejection Under 35 U.S.C. § 102

In the Final Office Action, the Examiner rejected claims 55-87 and 156-170 under 35 U.S.C. § 102(e) as being anticipated by US 2004/0010463 by Han-Carlson et al. (Han-Carlson). Applicant respectfully traverses the rejection. Han-Carlson fails to disclose each and every feature of the claimed invention, as required by 35 U.S.C. § 102(e), and provides no teaching that would have suggested the desirability of modification to include such features.

As an initial matter, Applicant notes that the Examiner did not provide any explanation of his interpretation of Applicant's claims or Han-Carlson. Instead, the Examiner merely copied the Applicant's claim language, and thereafter pasted the same reference to a few paragraphs from Han-Carlson (the same listing for essentially all of the claims). Moreover, the Examiner pasted this same listing of paragraphs for Applicant's claims without any explanation whatsoever, and did this much only for selected ones of the pending claims. Thus, Applicant is unfortunately left to make assumptions and guesses regarding the Examiner's interpretation of Applicant's claims and Han-Carlson.

Applicant's claim 55 recites a method of communicating a commitment made by an online entity in an online marketplace to a selling practice, and requires accepting the commitment by the online entity in the online marketplace to the selling practice prior to any interaction in the online marketplace between the online entity and the potential buyer, and monitoring compliance of the online entity with the commitment to the selling practice. Claim 55 further requires, when the entity fails to comply with the commitment to the selling practice, automatically restricting display of the online entity as a result of a search engine; and when the entity complies with the commitment to the selling practice, delivering a media object to a device for presentment to the potential buyer, the media object representative of the commitment. With respect to these items, the Examiner cited certain paragraphs of Han-Carlson without any explanation.

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Applicant is left to assume that the Examiner is interpreting a commitment made by an online entity to a selling practice prior to any interaction in the online marketplace between the online entity and the potential buyer, as required by independent claims 55, 74 and 83, so broadly as to encompass the pricing and other contract-related information provided by a seller to the collaborative contracts module (CCM) of Han-Carlson.¹ Applicant makes this assumption because Han-Carlson makes no mention of a commitment to a selling practice. However, even assuming this interpretation of Applicant's independent claims were reasonable, Han-Carlson fails to disclose or suggest each and every requirement of independent claims 55, 74 and 83, as required by section 102(e).

Han-Carlson fails to disclose or suggest automatically restricting display of the entity as a result of a search engine when the entity fails to comply with the commitment, where that commitment was made prior to any interaction between the online entity and the potential buyer, as required by independent claim 55.

Some of the paragraphs cited by the Examiner in rejecting Applicant's claims use the word "compliance."² However, these paragraphs relate to determining whether the seller delivered the agreed goods in undamaged form prior to authorizing delivery of payment for the goods to the seller. For example, paragraph [0043] cited by the Examiner states

[T]he transaction management system ... is further adapted for accepting a receipt of purchase acknowledgment including receipt characteristics. For example, characteristics such as total acceptance of goods, partial acceptance of goods and rejection of goods at the invoice or receipt line item level can be included in the acknowledgment. This information can be required as being verified for ensuring compliance before payment for a transaction is executed.

Claim 15 of Han-Carlson, also cited by the Examiner, requires that the CCM system apply business rules that include compliance information that must be met before making the transaction payable, wherein the computer and communications node is further adapted to use the compliance information to authorize payment for the transaction.

However, Han-Carlson does not remotely disclose or suggest that the CCM takes the additional step of restricting display of the entity as a result of a search engine, as required by claim 55, or of a media object representative of the commitment if the seller does not comply

¹ E.g., Han-Carlson paragraph [0013].

² Paragraph [0043] and claims 15 and 16.

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with the price or other contract term, as required by the other independent claims. Moreover, the CCM system described by Han-Carlson does not teach or suggest the step of, when the entity complies with the commitment to the selling practice, delivering a media object to a device for presentment to the potential buyer, the media object representative of the commitment, as also required by claim 55. There is no suggestion in Han-Carlson that the CCM system uses the "compliance information" for any purpose other than as a condition for making an individual transaction payable, as specifically described in the paragraphs and claims cited by the Examiner.

Other paragraphs cited by the Examiner use the term "compliance" differently. For example, claim 62 of Han-Carlson states that the CCM system compares an offer to determine "compliance" between the offer and a price of the seller to determining that the offer received "complies" with the contract terms. This uses the term "compliance" merely in reference to comparison of the buyer's and seller's terms to determine whether there is a match in order to set a transaction between those parties.

Similarly, in other paragraphs, Han-Carlson describes search functions according to the terms specified by the parties. For example, Han-Carlson describes that the system is capable of performing a search for eligible contracts that satisfy a buyer's terms.³ However, this "restriction" of the contracts that are not "eligible" and has nothing to do with restricting the results of a search engine based on whether the seller has complied with a commitment to a selling practice. In Han-Carlson, there is no suggestion that sellers or buyers are restricted from the search results if they fail to comply with delivery of goods or fail to actually sell the good at a specified price. In other words, the "restriction" of search results contemplated by Han-Carlson has nothing to do with compliance of the seller, and is not a result of any compliance monitoring. Again, in this context, Han-Carlson merely uses the term "compliance" in the sense that the buyer's terms match (i.e., "complies" with) the seller's terms and, therefore, the seller's contract is an eligible contract for consideration.

Thus, it appears the Examiner is attempting to stretch Applicant's claim language to read on a system that provides search results to sellers having contract terms that comply with (i.e., match) a buyer's contract terms. **Importantly, this does not suggest automatically restricting display of the online entity as a result of a search engine when that entity fails to comply**

³ Paragraph [0053].

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with the commitment to the selling practice that the entity already made. In the context of the CCM system, sellers are "restricted" from a search result only when their original "commitment" (i.e., terms as construed by the Examiner) does not "comply with" (match) the buyer's requirements. This says nothing about restricting display of the online entity as a result of a search engine when that entity makes a commitment to a selling practice (which may actually be acceptable to the buyer), but where seller subsequently fails to comply with that previously made commitment to the selling practice, as required by Applicant's claim 55.

For at least these reasons, Han-Carlson fails to disclose or suggest a number of requirements of Applicant's independent claims 55, 74 and 83. Thus, the Examiner has failed to establish a prima facie case of anticipation under section 102(e) for any of Applicant's pending claims.

As discussed above, the lack of any explanation as to how the cited portions of Han-Carlson meet the requirements of Applicant's claims has caused Applicant to make assumptions and guesses regarding the Examiner's interpretation of Applicant's claims and Han-Carlson. To the extent that the Examiner maintains the rejection of Applicant's claims based on Han-Carlson in an Advisory Action despite the obvious deficiencies discussed above, Applicant respectfully requests that the Examiner address Applicant's remarks by providing a detailed explanation in the Advisory Action at least with respect to what in Han-Carlson is: (1) a commitment to a selling practice; (2) monitoring compliance with that selling practice; (3) restricting display of an entity in the results of a search engine if the entity does not comply with the selling practice; and (4) or updating or controlling presentment of a media object based on whether the entity complies with the selling practice.

For the sake of clarity and conciseness in this after-final response, Applicant's above remarks were focused on the clear deficiencies of Han-Carlson with respect to the independent claims. However, Applicant does not acquiesce in the Examiner's characterization of Applicant's dependent claims or interpretation of Han-Carlson with respect to the dependent claims.

Further, with respect to dependent claim 64, Applicant notes that the only support provided for the rejection is the citation of paragraphs that are not even present in Han-Carlson.

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In other words, the Examiner citations are clearly erroneous. The paragraphs do not exist in the reference. Thus, for this additional reason, the Office Action has clearly failed to establish a prima facie case of anticipation of dependent claim 64.

Additionally, Applicant maintains that the Examination to date has been completely inadequate for the reasons stated in Applicant's prior submission dated April 3, 2006. This is now the third time Applicant has commented regarding the inadequacy of the examination apparent in the Office Actions. Applicant particularly notes the repeated, citation of the same paragraphs from Han-Carlson for all claims without any explanation, and the Examiner's apparent failure to consider each and every limitation of each of the forty-eight pending claims, as evidenced by the failure to address the limitations of claims 74-87 and 156-170. As discussed at length in the previous submission, these claims recite a number of limitations not present in claims 55-73, and therefore must be examined on their own merits.

As one example, Applicant directs the Examiner's attention to claim 65, which requires, when the entity complies with the commitment to the selling practice, delivering an electronic seal to a device for presentment to the potential buyer, the electronic seal representative of the commitment. Han-Carlson is entirely silent with respect to delivery of any form of an electronic seal whatsoever. The portions cited by the Examiner merely describe that the buyers and sellers are members of the purchasing organization, and there is no suggestion of an electronic seal that is displayed or withheld from a search result based on a monitored compliance of a seller with respect to a commitment to a selling practice that seller has previously made.

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CONCLUSION

All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date: October 3, 2006

By:

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